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Held at the Palais Wilson, Geneva, on Tuesday , 5 May 2015, at 3 p.m.

Chairperson: Mr. Tugushi (Vice-Chairperson)

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In the absence of the Chairperson, Mr. Tugushi (Vice-Chairperson) took the Chair.

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Third periodic report of the former Yugoslav Republic of Macedonia (continued) (CAT/C/MKD/3; CAT/C/MKD/Q/3; HRI/CORE/MKD/2013)

1. *At the invitation of the Chairperson, the delegation of the former Yugoslav Republic of Macedonia took places at the Committee table.*

2. **Mr. Ristovski** (The former Yugoslav Republic of Macedonia) said that a merit system for the election of judges had been introduced by the Law Amending and Supplementing the Law on Courts. Persons standing for election must have completed the initial training course at the Academy for Training of Judges and Public Prosecutors. The course consisted of 9 months of theoretical instruction and 15 months of practical training in courts and other relevant institutions, followed by a one-month internship in an international court. Admission to the Academy was reserved for persons who had passed the bar examination. They were also required to undergo psychological and integrity tests. Only lower-court judges with the requisite experience could stand for appointment or election to higher courts. Candidates were assessed by the Judicial Council. Similar criteria were applied to candidates for election to the presidency of a court.

3. With regard to the alleged wiretapped conversations concerning the appointment of a judge, the Public Prosecutor's Office had completed the investigation and court proceedings would shortly be initiated. One of the indicted persons had accepted a plea bargain under the new Law on Criminal Procedure.

4. Several laws had been enacted with a view to implementing international standards in the justice system. For example, a Council had been established to investigate complaints concerning the work of judges. If misconduct was detected, the Council would submit a proposal to the Judicial Council for the institution of proceedings against the judge concerned. Elections of judges to the Judicial Council were also subject to strict criteria. At least 15 years of judicial experience was required and candidates were subjected to psychological and integrity tests. The Minister of Justice was no longer an ex officio member. Under the new Law on the Academy for Training Judges and Public Prosecutors, students were required to study not only domestic legislation but also the case law of the European Court of Human Rights and other international courts.

5. The Public Prosecutor's Office had been provided with state-of-the-art equipment, including interview rooms with video surveillance, for the implementation of the new Law on Criminal Procedure. Under the 2009 European Union Instrument for Pre-Accession Assistance (IPA) project, the Public Prosecutor's Office had been allocated €1.6 million, most of which had been spent on a case management system and an audiovisual recording system for interviews with accused persons and witnesses. The case management system was used to generate reports and statistics on specific offences and criminal activities, particularly crimes against children. Under a law on the Public Prosecutor's Office that was currently being drafted, prosecutors would be required to take action within 30 days on ordinary criminal charges and within 60 days on charges of organized crime. They were required to take a decision on the merits within three months.

6. There had been three attacks on persons in the lesbian, gay, bisexual and transgender (LGBT) community in Skopje. Three perpetrators had been convicted in the most serious attack on LGBT individuals and facilities. Investigations were being conducted into the other two incidents.

7. It was planned to authorize the Constitutional Court to consider complaints filed by natural or legal persons against an administrative body or any other body exercising public authority which violated human rights and freedoms. That procedure would ensure more effective compliance by domestic courts with the case law of the European Court of Human Rights. With regard to the judgements of the European Court of Human Rights, compensation had been paid to victims in all but one of the seven cases concerned. The most recent judgement had been handed down on 22 April 2015 and the sum in question was payable within three months. Basic training in the application of the new Law on Criminal Procedure had been provided during the past three years for judges, public prosecutors, lawyers, police officers and many other public officials. The plea bargaining provision under the new Law on Criminal Procedure had been applied in 49 cases involving 131 defendants.

8. **Ms. Kikerekova** (The former Yugoslav Republic of Macedonia) said that the definition of torture in article 1 of the Convention had been incorporated in articles 142 and 143 of the Criminal Code. Article 142 prohibited the use of force, threats or any other illicit means to force a confession or other statement from a defendant, a witness or any other person. A perpetrator under article 142 could either be a public official or anybody who had received instructions from an "official person". That concept was defined in article 122, paragraph 4, of the Criminal Code and included the President of the Republic, officials appointed or elected by the Parliament, the Government, the courts, the Public Prosecutor's Office or the Judicial Council, as well as civil servants and military officers. Three persons had been convicted under article 143 in 2012 and six persons in 2013.

9. Articles 34 and 35 of the Law on the Ombudsman required public bodies to implement recommendations issued by the Ombudsman. In its annual report for 2014, the Ombudsman's Office had stated that public bodies had implemented its recommendations in 87 per cent of all cases. Prison directors and senior staff were required to report on their implementation of the recommendations of the Ombudsman's Office, which acted as the national protective mechanism. All places of detention were required to ensure unimpeded access to their facilities for the national protective mechanism and to permit unsupervised interviews with persons deprived of their liberty. Provision had been made for the allocation of funds under a separate budget item with a view to strengthening the financial independence of the Ombudsman's Office.

10. **Ms. Gavrilovska** (The former Yugoslav Republic of Macedonia) said that prison overcrowding was being addressed through the construction and expansion of prison facilities and the creation of an effective probation system. The Council of Europe Development Bank had provided a loan of €46 million for the construction of new facilities. An additional €6 million had been allocated by the Government. Construction of the Kumanovo facility, with a capacity of 226 inmates, had already been completed. Idrizovo Prison was being rebuilt in three stages and would have a capacity of 1,600 inmates. Work on the facility would be completed in 2016. Construction work on the new Tetovo juvenile correctional facility, which would accommodate 110 juvenile offenders, would also be completed in 2016. The electrical equipment, sanitary facilities and other installations at the juvenile facility in Veles were being renovated. Permits for the reconstruction of Skopje Prison had been applied for.

11. A preliminary version of the Law on Probation had been drafted. It was expected to reduce the prison population by between 12 and 15 per cent. The Cabinet's recommendation on implementation of probation as an instrument for reducing overcrowding had been disseminated in cooperation with the Academy for Training of Judges and Public Prosecutors. The number of inmates in Idrizovo Prison had increased by 37 per cent since 2012 owing to the enhanced efficiency of the courts under the new Law

on Criminal Procedure. A procedure had been established in December 2011 to improve sanitary conditions under such circumstances.

12. A National Strategy on Development of the Penitentiary System and an Action Plan on its implementation during the period from 2015 to 2019 was currently being adopted by the Government. The 13 strategic goals included the creation of more efficient mechanisms for handling violence among inmates and for addressing cases of ill-treatment. A case of alleged beating of inmates by Skopje Prison staff had been investigated in 2009. As the Public Prosecutor's Office had relinquished its right to charge the persons concerned, the investigation had been closed. An inmate of Tetovo Prison had allegedly been ill-treated in June 2011. The Ombudsman had filed a complaint against several wardens, but the Public Prosecutor's Office had found no grounds for criminal proceedings. Three of the 68 disciplinary measures imposed in 2014 concerned complaints of ill-treatment by prison staff. In one such case, a member of the Idrizovo Prison police had been dismissed in 2014 and sentenced to a one-year prison term. In a case at Tetovo juvenile correction facility, disciplinary measures and a fine had been imposed on a staff member who was found guilty of ill-treatment of a juvenile. A staff member at Gevgelija Prison had been dismissed for repeated violent conduct.

13. She said that the Law on Execution of Sanctions explicitly banned torture and provided for the right to personal security and the safeguarding of mental and physical integrity. The use of batons was strictly forbidden. A rulebook had been prepared, pursuant to which medical staff were required to report and record any signs of physical, psychological or sexual trauma observed on persons deprived of their liberty. Regarding access to health care, primary care was provided in prisons, while secondary and tertiary care was provided through the public system. Female prisoners were held in a separate block at Idrizovo Prison and were entitled to medical check-ups. The pregnant inmate at Skopje Prison had received full medical attention, including five visits to specialists. The investigation into the incident in which an inmate's HIV status had been disclosed had determined that none of the personnel at the inmate's facility were responsible for the leak. The protocol on HIV-positive prisoners provided for confidentiality and was in line with the National HIV Strategy 2012–2016. The drinking water available at prisons was tested regularly and was up to standard.

14. Non-governmental organizations (NGOs) were involved in the monitoring of places of deprivation of liberty through the national preventive mechanism. In 2013–2014, a medical doctor had been present for all visits to such places. A project had been launched in 2013, in collaboration with the Helsinki Committee for Human Rights of the Republic of Macedonia, to reintegrate juvenile offenders. Over 20 wardens and deputy wardens had received training in February 2015 to improve their management of the prisons.

15. **Mr. Ipchja** (The former Yugoslav Republic of Macedonia) said that the Administration for Execution of Sanctions had issued guidelines on recognizing signs of torture, which were used to train medical staff working with prisoners. The personnel at psychiatric hospitals were university graduates, trained in identifying and treating victims of torture. The national preventive mechanism had signed cooperation agreements with the Ombudsman and associations of psychiatrists and forensic doctors. Eight psychiatrists had taken part in the mechanism's visits in 2013. All medical professionals involved in the mechanism's work were trained in the Istanbul Protocol. The process of transferring the responsibility for the prison health-care system to the Ministry of Health was drawing to a close; the impact on the quality of health-care services in prisons was expected to be significant.

16. Turning to questions concerning abortion, he said that the mother's health was the prime consideration under the law on the termination of pregnancy. The law did not prolong the authorization procedure: under 10 weeks' gestation, the mother could make the

request directly to her obstetrician; beyond 10 weeks, requests had to be made to a commission, which was required to rule within three to seven days. Terminations could be conducted without the commission's authorization where the mother's life was in imminent danger.

17. **Mr. Kocev** (The former Yugoslav Republic of Macedonia), referring to the incident of 5 May 2013 involving violence committed by the Alpha Unit against the Roma, said that the Sector for Internal Control and Professional Standards, at the request of the Ombudsman, the European Roma Rights Centre and the Helsinki Committee, had investigated the allegations of disproportionate use of force and had found that the officers had acted in accordance with regulations. The investigations into attacks against members of the lesbian, gay, bisexual and transgender (LGBT) community had been completed and charges had been brought.

18. In 2014, the Ministry of the Interior had announced that an independent body would be set up to monitor the police. The Sector for Internal Control and Professional Standards, which was responsible for uncovering and documenting unlawful or unprofessional conduct on the part of Ministry officials, was in line with international standards and independent from the police. Its staff had been increased and it operated 24 hours a day. Training workshops were run to fight impunity and improve the treatment of persons deprived of their liberty. In response to the Ombudsman's recommendations, 10 of the police stations authorized to hold persons in custody had been refurbished and there were plans to improve the conditions in the remaining 28. In its 2013 report, the Ombudsman had stated that there was good cooperation with the Ministry.

19. Basic police training included courses on human rights, ethical conduct, managing differences, anti-discrimination, means of coercion, the treatment of juveniles and the use of force. Furthermore, human rights were a part of in-service training. In fact, the Council of Europe was sponsoring a project that included three training modules on such topics. A network of 20 police instructors provided training to their peers at the regional and local levels. In 2009, posters had been placed in all police stations to raise awareness of the rights of persons deprived of their liberty.

20. In 2014, the Alpha Unit had been transformed into a first response and intervention unit. It showed exceptionally good results in the identification and apprehension of perpetrators of serious offences. Its officers were required to adhere to all regulations governing police work and received training in human rights. The overall number of complaints against the Alpha Unit, as well as the number of complaints for excessive use of force, had dropped between 2009 and 2014. In 2013, the Sector for Internal Control and Professional Standards had filed one criminal charge against an Alpha Unit officer, had issued five written warnings and had made three recommendations for disciplinary action.

21. The Government was aware that the conditions at the reception centre for foreign nationals were very bad and steps were being taken to secure funding for its refurbishment and the construction of a new facility. However, it should be borne in mind that the former Yugoslav Republic of Macedonia was a country of transit. Under the Law on Foreign Nationals, detention at the centre must be ordered by the courts and could not exceed six months; detention orders were appealable. Unaccompanied minors were held at the facility for asylum seekers; in those cases a legal guardian was appointed and was permitted to visit them. Although they were entitled to education services and social security benefits, in reality they tended not to stay in the country long enough to take advantage of them. Providing a statistical overview of trafficking and migration, he said that most of the victims of trafficking were children, that the cases had gone to trial and that some of the perpetrators had been sentenced to prison. None of the applications for asylum made in 2013 had been granted; however, in 2014, 11 Syrians had been granted asylum and 1 Ukrainian had been placed under subsidiary protection. Most applications were denied

because of a lack of evidence of a danger of prosecution in the country of origin or because the applicant was considered to pose a security threat. Those who were granted asylum were fingerprinted and photographed and received an identity document within 15 days. The number of illegal crossings into the country had been growing since 2012.

22. **Mr. Husein** (The former Yugoslav Republic of Macedonia) said that more than US$ 3 million, provided by the Netherlands, international organizations and the Government, had been spent under the first and second national strategies for protection against domestic violence. The running of shelters and counselling services was covered in ministerial budgets. Under the third strategy, spanning the period 2016–2020, all relevant institutions had to allocate funds to its implementation. By law, the police were required to intervene in domestic incidents and to produce a report within 12 hours. They could recommend the removal of the perpetrator and inform social work centres, which were required to report breaches of protective measures. When a social worker filed a complaint, the courts were required to take action within seven days. Safety plans were devised by multidisciplinary teams, and victims could request protection and choose a trusted person to accompany them during proceedings. More than 110 professionals had received training in dealing with domestic violence.

23. **Ms. Gaer** (Country Rapporteur) drew the delegation's attention to a statement issued on 17 March 2015 by a spokesperson for the Office of the United Nations High Commissioner for Human Rights, expressing concern specifically about the troubling issues revealed in the leaked wiretaps, such as interference with the appointment of judges or with the activities of the public prosecutor. In the interest of maintaining public confidence in the judicial system, she asked whether any of the allegations of wrongdoing had been investigated. Returning to the incidents of violence against members of the LGBT community, she wished to know what penalties had been imposed and what compensation awarded as well as what steps were being taken to protect that community. She also asked whether there was any mention in the amendments to legislation on the Ombudsman of pluralism based on merit and whether it was true that the amendments did not address the matter of staffing. She invited the delegation to comment on reports that the parliament had delayed the nomination of certain Ombudsman staff for up to one year.

24. She requested further information on the steps taken to improve the reception centre for foreign nationals and to prevent persons attempting to cross into the country unlawfully from being turned back without undergoing the individual assessment. She welcomed the plans to introduce an independent external mechanism to monitor the activities of the Ministry of the Interior and the adoption of a new law on the police whereby police officers who committed domestic violence had their service weapons confiscated. Noting that the latter initiative could be a model for other countries, she asked whether it had come into force and, if so, how many complaints had been filed and how many weapons had been confiscated.

25. **Mr. Domah** (Country Rapporteur) said that it was regrettable that a judicial official had not been included in the delegation, particularly given the concern expressed regarding the independence of the judiciary. Recalling the importance of establishing a judicial system that fostered a culture of respect for human rights, he asked which body was responsible for determining the content of the training for members of the Academy for Training of Judges and Public Prosecutors and who sat on the Judicial Council. He asked whether there was provision for judges and other judicial officials to discuss judicial issues. Was the constitutional complaints mechanism empowered to hear complaints under articles 13 and 14 of the Convention? Given the scant evidence of the application of criminal, civil and administrative sanctions concerning acts of torture and ill-treatment, how did the State ensure that the laws intended to implement the Convention were given effect? The improvement of the penitentiary system needed to be in line with international standards.

26. **Mr. Bruni** said that he was concerned that the detention conditions in most police stations still did not meet international standards. He asked whether the Government had envisaged a budget and policies to rectify that shortcoming and why it had taken so long to address those substandard conditions.

27. **Mr. Modwig** expressed concern at the fact that the high number of complaints filed with the Ombudsman on excessive use of police force had not led to investigations and would like further information in that regard. He asked whether the medical doctors who participated in visits to mental health-care institutions by the national preventive mechanism were independent from the mental health-care system. Would the Government consider systematically allowing participation of NGOs, which was currently granted at the discretion of the Ombudsman, in national preventive mechanism visits?

28. **Ms. Belmir** said that in various countries under European law, the Public Prosecutor was not the only channel open for persons wishing to lodge complaints. Where the individuals involved in a case that was shelved by the Public Prosecutor wished to appeal that decision, they could submit their case directly to the courts. Such a system protected victims' rights and she wondered if the State party had considered it. Access to justice involved protection for all persons falling within the jurisdiction of the State and she asked whether all persons from vulnerable groups, including Macedonian and foreign nationals, were provided protection by means such as legal aid and appeals measures. She asked whether article 88 of the Criminal Code, which placed the burden of proof of rape on victims over the age of 14 years, had been repealed.

29. **Ms. Pradhan-Malla** asked for details of the plans for separate penitentiary facilities for women. She also asked whether the improvements to women's health care in prisons covered reproductive care and whether efforts had been made to guarantee abortion services. Did legislation on domestic violence define all forms of violence against women as an offence?

30. **Mr. Zhang** asked for further information regarding the training of military personnel.

31. **The Chairperson** said that reports of violence among patients, mistreatment of patients by medical staff, and staff shortages in certain mental health-care facilities were all causes for concern and asked whether steps had been taken to address those issues. He asked whether certain hospitals in which the living conditions were extremely poor had been rebuilt or upgraded, and whether the use of obsolete restraints, such as shackles, on female patients had been abolished or replaced.

The meeting was suspended and 5.15 p.m. and resumed at 5.25 p.m.

32. **Mr. Ristovski** (The former Yugoslav Republic of Macedonia) said that the main perpetrators in the case of alleged mass wiretapping had admitted wrongdoing and that the case had been investigated and sentences imposed. The recruitment procedures and conditions for the position of deputy Ombudsman and positions in other public departments under the purview of the Ombudsman were governed by law and openings were publicly announced.

33. **Mr. Tomishic** (The former Yugoslav Republic of Macedonia) said that activities were performed by various agencies to combat discrimination against lesbian, gay, bisexual and transgender (LGBT) persons. The Commission for Protection against Discrimination was competent to receive complaints on any grounds and processed all reports of discrimination against LGBT persons, which were promptly investigated by the Public Prosecutor's Office, according to standard procedure.

34. **Mr. Kocev** (The former Yugoslav Republic of Macedonia) said that the Reception Centre for Foreign Nationals had been partially reconstructed and its sanitation facilities

had been upgraded. There were also plans to allocate funds under the national budget for the construction of a new centre. Border crossings at any point other than at the official border crossings were illegal. Illegal migrants were escorted to a police station and if they requested asylum, the appropriate process was initiated.

35. Under the action plan of the Ministry of the Interior, which extended to 2019, measures to set up an external oversight mechanism to monitor police conduct were envisaged and a relevant bill would be drafted. The law relating to the use of force and weapons by law enforcement officials had entered into force in March 2015 and thus far only one case of a weapon being confiscated from a police officer had been recorded. Lastly, funds had been provided by the Ministry of the Interior to refurbish and improve conditions in various detention facilities and there were plans to renovate and upgrade a further 28 police stations.

36. **Mr. Ristovski** (The former Yugoslav Republic of Macedonia) said that indeed it was regrettable that his delegation did not include a judge, a point that would be rectified at the Committee's next consideration of the country's report. Provisions were in place to enable discussion on case law within courts and among judicial officials. The Ministry of Justice cooperated closely with other judicial bodies, such as the Supreme Court and the Constitutional Court, in matters of judicial reforms; an inter-institutional body monitored those reforms, and legal amendments in that area were drawn up by working groups composed of representatives from various ministries. In addition, the Judicial Council was responsible for oversight of judges' activities. The views of the Committee would contribute to further enhancing cooperation.

37. Following the enactment of the relevant law, the competence to hear constitutional complaints would lie with constitutional complaints mechanism and not the Constitutional Court. Judges and officials of the Constitutional Court were given training on the new law and new recruitments had been made with a view to increasing the capacity of the court. The programmes of the Academy for Training of Judges and Public Prosecutors were designed by members from various ministerial departments.

38. **Ms. Gavrilovska** (The former Yugoslav Republic of Macedonia) said that detainees were entitled to file complaints with the Administration for Execution of Sanctions and the Ombudsman. The majority of complaints concerned their treatment by officials and access to health care. Complaints were processed speedily and, where they were made to the Ombudsman, joint reports on their follow-up were written with the Administration for Execution of Sanctions.

39. It was compulsory for an independent psychiatrist to participate in monitoring visits to places of detention by the national preventive mechanism and the additional involvement of an external forensic expert could be requested. The State party cooperated closely with the Helsinki Committee for Human Rights of the Republic of Macedonia and with NGOs, which had the right to participate in monitoring visits.

40. The law provided for health care for women in detention, including maternity and reproductive care. All pregnant women in the State party were offered the same medical care, regardless of whether they were detained. If women prisoners could not be guaranteed delivery conditions equal to those outside their facility, they were transferred to a hospital. Mothers and babies remained in the medical facilities until the children reached one year. The birth certificates of children born in prison did not specify their place of birth as such.

41. **Mr. Ipchja** (The former Yugoslav Republic of Macedonia) said that steps were being taken under the Ministry of Health to improve conditions in mental health-care institutions and new restraints were currently used in place of outdated devices. Medical personnel were being recruited to redress the shortage in those institutions and employment conditions had been improved. Various institutions had been renovated and generous

budgets had been earmarked for the construction of new wards and centres. The law on abortion was aimed at safeguarding the rights of pregnant women, creating the conditions for its proper implementation, and providing adequate training to gynecologists.

42. **Mr. Husein** (The former Yugoslav Republic of Macedonia) said that, under the Ministry of Labour and Social Policy, renovations had been undertaken to mental health-care institutions and some facilities had been closed down to make way for new constructions that met standards. There had been a steady rise in the number of complaints lodged concerning domestic violence, with 720 such complaints being filed by women in 2014. Awareness-raising campaigns were launched in that regard.

43. **Ms. Geleva** (The former Yugoslav Republic of Macedonia) said that training in human rights and international humanitarian law was provided to military personnel.

44. **Mr. Ristovski** (The former Yugoslav Republic of Macedonia) said that the management board for the Academy for Training of Judges and Public Prosecutors consisted of members nominated by the Academy and the Public Prosecutor's Office. The board which designed the training programmes was composed of members from the Judicial Council, the Ministry of Justice and several other judicial bodies. Complaints regarding torture filed with the Ombudsman had led to extremely few investigations and the Government recognized the need to address that shortcoming. Specific programmes were therefore being formulated to enable officers in the relevant institutions to recognize cases of torture and act upon that knowledge.

45. He thanked the Committee for the constructive dialogue and for the Committee's input, which would be taken into consideration in the formulation of measures and legislation.

46. **The Chairperson** thanked the delegation for its thorough replies and its engagement in the Committee's review of its report.

The meeting rose at 6 p.m.